

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TRP ENTERTAINMENT, LLC,

Plaintiff,

vs.

BC ENTERTAINMENT, INC., *et al.*,

Defendants.

Case No. 2:08-cv-00579-LDG-CWH

ORDER

This matter is before the Court on Plaintiff's, TRP Entertainment, LLC, Motion to Vacate and Reset Settlement Conference (#82), filed on March 11, 2013. The Court also considered the Declaration of Nancy R. Lindsley (#83), filed on March 11, 2013.

Plaintiff seeks to reschedule the settlement conference currently set for April 30, 2013 due to a conflict that precludes its participation. Plaintiff's Counsel attests that she contacted Defendant Barrie Cunningham to agree on a new date, but he indicated that he would be unavailable until November 2013. *See* Declaration #83, 2.

Defendant Barrie Cunningham failed to submit a response to Plaintiff's motion. Local Rule 7-2(d) states, "The failure of an opposing party to file points and authorities in response to any motion shall constitute consent to the granting of the motion." Therefore, the Court finds that Defendant Barrie Cunningham has consented to the rescheduling of the settlement conference. Accordingly, the settlement conference is hereby rescheduled to commence at **9:00 AM on Wednesday, May 8, 2013** in the *chambers* of the undersigned Magistrate Judge, Room 3014, Lloyd D. George United States Courthouse, 333 Las Vegas Boulevard South, Las Vegas, Nevada.

Unless ordered otherwise, the following individual(s) are **required to be present in person for the duration of the settlement conference:**

1. All counsel of record who will be participating in the trial and who have full authority to settle this case;
2. All parties appearing pro se;
3. All individual parties;
4. In the case of non-individual parties, an officer or representative with binding authority to settle this matter up to the full amount of the claim or last demand made; and
5. If any party is subject to coverage by an insurance carrier, then a representative of the insurance carrier with authority to settle this matter up to the full amount of the claim or last demand.

A request for an exception to the above personal attendance requirements must be filed and served on all parties at least fourteen (14) days prior to the settlement conference.

PREPARATION FOR SETTLEMENT CONFERENCE

In preparation for the settlement conference, each party shall submit a confidential settlement conference statement for in camera review. The statement shall contain the following:

1. A brief statement of the nature of the action.
2. A concise summary of the evidence that supports your theory of the case, including the names of individuals disclosed pursuant to Rule 26(a)(1)(A)(i), the Rule 26(a)(1)(A)(iii) computation of damages, and the Rule 26(a)(1)(A)(iv) insurance information. You must provide all information which documents or supports your damages claims. Copies of medical records or treatment records need not be submitted but, rather, shall be provided in a table or summary format.
3. Attach to your statement any documents or exhibits which are relevant to key factual or legal issues, including selected pages from deposition transcripts or responses to other discovery requests.
4. An analysis of the key issues involved in the litigation. The analysis must include a discussion of the strongest points in your case, both legal and factual, and a frank discussion of the weakest points as well. The Court expects you to present a thorough analysis of the key issues and candid evaluation of the merits of your case.
5. Identify and explain any obstacles to settlement, e.g. medical liens, statutory caps, or motions pending before the Court.

6. The history of settlement discussions, if any, which have occurred in this case. Provide any demands, offers, or offers of judgment that have been made and, if applicable, the reasons they have been rejected. Attach a copy of all settlement correspondence, including all written demands or offers and responses thereto.

7. Provide the initial settlement proposal that will be presented at the settlement conference with a justification for any monetary amount. The proposal must include any non-monetary settlement terms that will be presented.

The settlement conference statements shall be received in my chambers - Room 3014 - no later than **Wednesday, May 1, 2013. DO NOT SERVE A COPY ON OPPOSING COUNSEL. DO NOT DELIVER OR MAIL COPIES TO THE CLERK'S OFFICE.**

The purpose of the statement is to assist the undersigned Magistrate Judge in preparing for and conducting the settlement conference. In order to facilitate a meaningful conference, your utmost candor in responding to all of the above-listed questions is required. **The settlement conference statement will remain confidential.** If this case does not settle, the settlement conference statement will not be disclosed to the judge who ultimately presides over the trial. Each statement will be securely maintained in my chambers, and will be destroyed following the conference.

FAILURE TO COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ORDER WILL SUBJECT THE NON-COMPLIANT PARTY TO SANCTIONS UNDER FEDERAL RULE OF CIVIL PROCEDURE 16(f).

Based on the foregoing and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's, TRP Entertainment, LLC, Motion to Vacate and Reset Settlement Conference (#82) is **granted**.

DATED this 27th day of March, 2013.



C.W. Hoffman, Jr.
United States Magistrate Judge